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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,320	02/20/2004	Darren Traub	700065.4003	6915
34313	7590	01/12/2006	EXAMINER	
ORRICK, HERRINGTON & SUTCLIFFE, LLP IP PROSECUTION DEPARTMENT 4 PARK PLAZA SUITE 1600 IRVINE, CA 92614-2558			THOMAS, ALEXANDER S	
		ART UNIT	PAPER NUMBER	
		1772		
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/783,320	TRAUB ET AL.	
	Examiner	Art Unit	
	Alexander Thomas	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 December 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellen 5,249,767. The reference discloses a wedge comprising a rim extending around its edge; see column 3, lines 11-18. The top and bottom surfaces may include ribbon to improve the anti-skid properties of the wedge; see column 3, line 66 through column 4, line 2. It would have been obvious to one of ordinary skill in the art to provide such ribbing on the cavity 28 of the reference's wedge and to have the height of the ribbing less than the height of the rim surfaces 32, 34 in order to prevent the table leg from sliding off of a side of the wedge. It would also have been obvious to one of ordinary skill in the art to vary the size of the spacing of the ribs in the ribbing to provide a desired degree of frictional resistance when in use.

2. Claims 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellen as applied to claims 1-6 above, and further in view of applicants' acknowledged state of the art. The primary reference does not teach the use of fibers in its plastic shim. The secondary reference discloses the use of fibers in plastic building materials in order to provide desired physical properties; see [0002] to [0004] of the instant specification. It would have been obvious to one of ordinary skill in the art to provide the plastic shim of the primary reference with any well-known fiber, such as cellulose fiber, and to adjust the amount of fiber in the plastic in order to provide desired physical properties to the shim for a particular end use. It would also have been obvious to one

of ordinary skill in the art to adjust the properties of the plastic use to make the shim to provide the desired structural properties for a particular end use (claim 12). Concerning claim 16, the broad teaching of cellulose fibers in the secondary reference would suggest the use of waste cellulosic fibers in the prior art article.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellows 4,830,320 in view of Mellon. The primary reference discloses the invention substantially as claimed; see Figure 2. However it does not disclose a wedge with a rim having a top portion higher than the ribbed center portion. The secondary reference teaches the use of a rim on a wedge wherein the rim is higher than the center portion of the wedge in order to prevent a table leg from sliding off of the wedge; see column 3, lines 11-46. It would have been obvious to one of ordinary skill in the art to provide the wedge of the primary reference with a raised edge portion as taught in the secondary reference in order to prevent the supported item from sliding off of the wedge.

4. Claims 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellows in view of Mellon as applied to claims 1-6 above, and further in view of applicants' acknowledged state of the art. The primary reference does not teach the use of fibers in its plastic shim. The secondary reference discloses the use of fibers in plastic building materials in order to provide desired physical properties; see [0002] to [0004] of the instant specification. It would have been obvious to one of ordinary skill in the art to provide the plastic shim of the primary reference with any well-known fiber,

such as cellulose fiber, and to adjust the amount of fiber in the plastic in order to provide desired physical properties to the shim for a particular end use. It would also have been obvious to one of ordinary skill in the art to adjust the properties of the plastic use to make the shim to provide the desired structural properties for a particular end use (claim 12). Concerning claim 16, the broad teaching of cellulose fibers in the secondary reference would suggest the use of waste cellulosic fibers in the prior art article.

Claim Objections

5. Claim 3 is objected to because of the following informalities: there is no antecedent basis for the term "the top of the shim". Appropriate correction is required.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1772

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ALEXANDER S. THOMAS
PRIMARY EXAMINER